
Public Utilities Commission of the State of California

Results of Public Agenda 3127

Meeting Held on Thursday, January 22, 2004 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Susan P. Kennedy

Loretta M. Lynch

Carl W. Wood

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings

505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <i>Closed to the Public</i>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <i>Open to the Public</i>
Friday, February 06, 2004 (San Francisco)	Wednesday, February 11, 2004 (San Francisco)
Monday, February 23, 2004 (San Francisco)	Thursday, February 26, 2004 (San Francisco)

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor
(415) 703-2074 E-mail: public.advisor@cpuc.ca.gov



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PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
-

Public Comment:

Re 28:

Bill Crowley, San Francisco, CA

Bruce Ackerman, Fairfax, CA

Edward A. Mainland, Sustainable Marin, Novato, CA

Govinda Daly, San Francisco, CA

Jamie Mott, Marin Peace and Justice Coalition, Mill Valley, CA

Jeff Hoffman, San Francisco, CA

John Schlag, Sustainable Novato, Novato, CA

Julia Peters, Canyon, CA

Juliette Beck, Public Citizen, Oakland, CA

Larry Bragman, Fairfax, CA

Marie Kerpan, Sustainable Mill Valley, Mill Valley, CA

Mary Ann Maggiore, Fairfax, CA

Mary Beth Brangan, Ecological Options Network, Bolinas, CA

Mary Bull, Greenwood Earth Alliance, Save the Redwoods Boycott the Gap Campaign, San Francisco, C

Matt Hartwell-Herrero, San Anselmo, CA

Patricia Murray, Sustainable Fairfax, Fairfax, CA

Rebecca Bryant, Oakland, CA

Steve Beck, Fairfax, CA

Re 41:

Juliette Beck, Public Citizen, Oakland, CA

Mary Bull, Greenwood Earth Alliance, Save the Redwoods Boycott the Gap Campaign, San Francisco, C

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Orders and Resolutions

-
- 1**
[2857] **A03-05-024 - Telecom Consultants, Inc. (Applicant).**
This decision grants Applicant a certificate of public convenience and necessity (CPCN) to resell local exchange and interexchange telecommunications services. In addition, Applicant is fined \$500 for operating without a CPCN. This proceeding is closed.
(Comr Brown - ALJ O'Donnell)
Agenda 3126, Item 6 1/8/2004 (Lynch)
Outcome Signed (Comr. Lynch reserves the right to file a dissent.)
D04-01-039
Yes: (Brown, Kennedy, Peevey, Wood)
No: (Lynch)
Abstain: (none)
Absent: (none)
- 2**
[3133] **Res ALJ 176-3127**
Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 3**
[2894] **A03-04-002 - Citizens Telecommunications Company of California, Inc., dba Frontier Communications of California (Citizens).**
This decision requires Citizens to reimburse the Commission for the costs of an audit to be performed by consultants working for the Commission's Office of Ratepayer Advocates. In addition, the decision adopts an all-party settlement regarding modifications of the New Regulatory Framework (NRF) reporting requirements. Citizens is ordered to refile no later than 90 days after final decisions are adopted in R01-09-001 and I01-09-002, the NRF review for SBC California and Verizon California Incorporated. This proceeding is closed.
(Comr Peevey - ALJ O'Donnell)
Agenda 3124, Item 6 12/4/2003 (Peevey);
Agenda 3125, Item 1 12/18/2003 (Staff);
Agenda 3126, Item 3 1/8/2004 (Lynch)
Outcome Held (2/11/04, Consent Agenda. Further review.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
-

4

[3022]

A02-07-031 - Southern California Edison Company (Edison).

This decision authorizes 23 proposed leases by Edison to Cingular Wireless, under two agreements, of locations for the attachment of antennas and antenna equipment, authorizes use of one of the agreements for future such leases, orders that certain confidential terms in the agreements be filed under seal but requires that Edison file an application for approval under § 851 before making any substantive amendments to the agreements. This proceeding is closed.

(Comr Brown - ALJ Vieth)

Agenda 3126, Item 10 1/8/2004 (Wood)

Outcome Held (2/11/04, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

5

[3059]

A02-10-029 - Southern California Edison Company (Edison).

This decision authorizes, under several agreements, 25 proposed leases by Edison to Verizon Wireless of excess space at communication facility sites or antenna and antenna equipment attachment locations. The decision also authorizes use of the master site agreement and master attachment agreement, and their associated standard agreements, for future such leases and orders that certain confidential terms in the agreements be filed under seal, but requires that Edison file an application for approval under §851 before making any substantive amendments to the agreements. This proceeding is closed.

(Comr Brown - ALJ Vieth)

Agenda 3126, Item 13 1/8/2004 (Wood)

Outcome Held (2/11/04, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

6

[3081]

C03-01-007 - DSLExtreme.com, Inc. and Sonic.net, Inc. vs. Pacific Bell Telephone Company, SBC Advanced Solutions, Inc., and Verizon California Inc.

This decision dismisses the Amended Complaint, which was filed after the ALJ denied complainants' request for a temporary restraining order (TRO). The complainants, two ISPs that purchase DSL transport from defendants, contend that SBC ASI and SBC California engaged in a misleading advertising campaign designed to give customers of DIRECTV DSL the false impression that these customers would suffer less downtime if they chose SBC ASI's affiliate as their new ISP rather than a non-affiliated ISP. Complainants also contend that SBC ASI discriminated against them by not disclosing the DIRECTV DSL shutdown date on its electronic ordering system, and by delaying publication of disconnect information for individual DIRECTV customers. The decision concludes that the advertisements in question were not misleading as a matter of law, that the discrimination claims are without merit because the Amended Complaint fails to allege any difference in treatment among defendants' ISP customers with respect to information, and that there was no delay in posting the disconnect dates of retail customers because, as the TRO hearing record shows, SBC ASI moved to post this information promptly once DIRECTV gave it permission to do so. The decision also concludes that similar allegations of discrimination against VADI should be dismissed, because VADI's uncontroverted declarations show that (1) all of its ISP customers received the same information at the same time about DIRECTV's shutdown date, and (2) VADI's ISP affiliate was not in a position to profit from the 3 week period that it took to develop a special "hot swap" transition procedure. This proceeding is closed.

(Comr Brown - ALJ McKenzie)

Agenda 3126, Item 20 1/8/2004 (Lynch)

Outcome Signed

D04-01-040

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

7

[3094]

A03-09-043 - Nonprofits' United Vehicle Insurance Pool (NUVIP).

This decision finds that insurance issued by NUVIP meets the requirements of General Order 160-A. This proceeding is closed.

(Comr Brown - ALJ Bushey)

Outcome Signed

D04-01-041

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

8

[3098]

A99-10-029 - City of Novato and Black Point Partnership, L.P.

For an order authorizing an at-grade crossing of the tracks of the Northwestern Pacific Railroad Authority in the City of Novato, County of Marin. This decision dismisses the Petition for Modification of the City of Novato to modify D00-06-036. This proceeding is closed.

(Exam Clark)

Outcome Signed

D04-01-042

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

9

[3109]

Res T-16819 - SBC California (SBC).

This resolution authorizes SBC an increase in rates for six rate elements of Network Reconfiguration Service (NRS) in conjunction with changes to NRS necessitated by new software requirements. The old software is not supported and obsolete. (Advice Letter (AL) 24303 and AL 24303A filed on October 20, 2003 and October 22, 2003, respectively)

Outcome Held (2/11/04, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

10 (Rev.)

[3115]

Res W-4452 - Vista Grande Water System (VGWS).

This resolution authorizes VGWS a general rate increase producing additional annual revenue of \$13,367 or 49.4% in 2003.

Agenda 3126, Item 37 1/8/2004 (Lynch)

01/21/2004 - This revision was not shown on the Agenda mailed to the public.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

11 Res W-4455 - Stirling Bluffs Corporation.

[3149]

This resolution authorizes Stirling Bluffs Corporation liability charges for using water without application, no charges or penalties on account of non-payment of charges by a previous tenant, and the charge for payment collection by utility representatives in lieu of service disconnection. (Advice Letter 41, filed November 17, 2003)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

12 R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.

[3157]

I95-04-044 - Related matters. In D02-08-067, the Commission adopted rules regarding, among other things, the ownership of Service Provisioning Cross-Connects (SPCs). The adopted rules were included as Attachment B to the decision. Rule 7 requires that, when a tenant switches local exchange telephone service from one carrier to another, the new carrier shall not disconnect the previous carrier's SPCs until at least 24-hours after the previous carrier has been notified of the switch. Rule 9 requires carriers to make a phone number available so that the notices required by Rule 7 can be made. This decision grants the unopposed petition of Cox California Telecom, L.L.C. to modify D02-08-067 by deleting Rule 7 because it is not needed, and is costly to implement. In addition, the decision deletes Rule 9 whose only purpose is to facilitate compliance with Rule 7.

(Comr Peevey - ALJ O'Donnell)

Outcome Signed

D04-01-043

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

13 A03-11-014 - Innocent A. Okeke, dba Bay Yellow Shuttle (Applicant).

[3158]

This decision authorizes Applicant to operate as a passenger stage corporation between the Counties of San Francisco, Alameda, and Contra Costa, and the International Airports of San Francisco, Oakland, and San Jose; and to establish a Zone of Rate Freedom. This proceeding is closed.

(Exam Clark)

Outcome Signed

D04-01-044

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

14

[3165]

C02-09-045 - Mpower Communications Corp. (Mpower) vs. Pacific Bell Telephone Company (Pacific).

This decision extends the 12-month statutory deadline pursuant to Pub. Util. Code Section 1701.2 (d) in this proceeding as requested by Mpower and Pacific.

(Comr Peevey - ALJ Grau)

Outcome Signed

D04-01-045

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

15

[3169]

R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.

This decision awards the Green Power Institute \$41,826 in compensation for its contribution to D03-06-071.

(Comr Peevey - ALJ Allen)

Outcome Signed

D04-01-046

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Regular Agenda

Energy Orders

16

[2881]

A02-02-012 - Southwest Gas Corporation.

For authority to increase rates in San Bernardino, Placer, El Dorado, and Nevada Counties. This decision grants increases of \$3.8 million in Southern California and \$3.8 million in Northern California. This proceeding is closed.

(Comr Peevey - ALJ DeBerry)

Agenda 3124, Item 40 12/4/2003 (Lynch);

Agenda 3126, Item 46 1/8/2004 (Lynch)

Outcome Held (2/11/04. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

17

[2882]

R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly 1X and D01-09-060.

This decision denies the Petition to Modify D03-04-057 filed by SBC Services, University of California/California State University, and California Large Energy Consumers Association, and also denies the Petition to Clarify D02-03-055 filed by Southern California Edison. The decision calls for additional comments to develop the record.

(Comr Brown, Comr Wood - ALJ Pulsifer)

Agenda 3123, Item 33 11/13/2003 (Staff);

Agenda 3124, Item 41 12/4/2003 (Brown);

Agenda 3126, Item 47 1/8/2004 (Kennedy)

Outcome Held (2/11/04. For additional comments.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

18

[2910]

A03-05-012 - Pacific Gas and Electric Company (PG&E).

PG&E seeks Commission approval pursuant to Pub. Util. Code §851 of certain licenses and leases of PG&E property already in effect (the “agreements” or “transactions”). In total PG&E seeks approval of 256 transactions. Most of these agreements were entered into several years ago. Each permits various uses of PG&E property by third parties. The transactions did not have prior approval of the Commission pursuant to Pub. Util. Code §851. PG&E states that it discovered many of these agreements in various branch office files while conducting an extensive search in the PG&E bankruptcy proceeding. Because the 256 transactions may implicate environmental review or may not meet the criteria for General Order (GO) 69-C transactions, PG&E states that it decided it would be prudent to seek formal approval of the transactions under Section 851. In addition, PG&E asserts that Commission environmental review under the California Environmental Quality Act (CEQA) is unnecessary because the majority of the transactions fit within CEQA exemptions, nine received adequate local CEQA review, and six pre-date CEQA and are thus not subject to its requirements. This decision grants Section 851 approval for 255 of the transactions on a prospective basis. The Commission notes one of the transactions fits within recent Commission decisions finding agreements allowing floating boat docks as appropriate under GO 69-C. Therefore, Commission's approval here is not required. The decision declines to impose a penalty for failure to obtain prior approval of the transactions. With respect to CEQA, the Commission notes that because all of the agreements are several years old, any activity which may have warranted Commission's environmental review has long since occurred. Accordingly, Commission's CEQA review at this time has little value for practical purposes. Nevertheless, the Commission will address the CEQA issues raised by PG&E and determine where possible, the applicability of the claimed exemptions. This proceeding is closed. (Comr Kennedy - ALJ Walker)

Agenda 3124, Item 42 12/4/2003 (Kennedy)

Outcome Held (2/11/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

19

[2936]

R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code §761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.

This decision involves Commission implementation and enforcement of Logbook Standards for thermal powerplants adopted by the California Electricity Generation Facilities Standards Committee pursuant to Pub. Util. Code §761.3. Within 30 days of the date this order is mailed (or 30 days of initial operation of a new facility), an authorized representative of each covered electricity generation facility shall file a verified statement with the Director of Consumer Protection and Safety Division (CPSD) regarding compliance with these orders. Covered facilities are 10 megawatts (MW) and larger, subject to several exceptions. The CPSD Director may modify this MW limit to reflect different objective criteria. Within 12 months, respondents shall file and serve an application that addresses implementation and enforcement of a common logbook format plus remote and secure access to logbook data in real time. The Executive Director shall file a notice of exemption regarding the California Environmental Quality Act.

(Comr Wood - ALJ Mattson)

Agenda 3124, Item 12 12/4/2003 (Peevey)

Outcome Held (4/1/04. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

20

[2955]

R02-06-041 - Order Instituting Rulemaking to require California Natural Gas and Electric Utilities to preserve interstate pipeline capacity to California.

This decision establishes cost allocation methodologies for Pacific Gas and Electric Company, Southern California Gas Company, Southern California Edison Company, Southwest Gas Corporation, and San Diego Gas & Electric Company for the costs of the turned back capacity on El Paso Natural Gas Company's interstate pipeline that the utilities were ordered to procure pursuant to D02-07-037. This proceeding is closed.

(Comr Lynch - ALJ Brown)

Agenda 3124, Item 45 12/4/2003 (Staff);

Agenda 3125, Item 51 12/18/2003 (Wood)

Outcome Signed (Comr. Lynch will file a concurrence.)

D04-01-047

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

21

[3002]

A03-04-022 - Southern California Edison Company (SCE).

This decision adopts a 2003 revenue requirement forecast of \$2.505 billion for SCE's Energy Resource Recovery Account (ERRA). It also adopts an interest rate index for undercollections and charges to ERRA tariff. This proceeding is closed.

(Comr Peevey - ALJ Galvin)

Agenda 3125, Item 58 12/18/2003 (Lynch)

Outcome Signed

D04-01-048

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

22

[3003]

I01-08-029 - Order Instituting Investigation into Southern California Edison Company's electric line construction, operation, and maintenance practices. Southern California Edison Company (Edison), Respondent.

This decision fines Edison a total of \$576,000, primarily for 25 violations of the Commission's General Order (GO) 95 and GO 128 specifying the requirements for the construction, operation, and maintenance of overhead and underground utility systems. The decision fines Edison \$20,000 for each of these 25 violations that have a nexus with an accident involving death, injury, or property damage.

It also fines Edison \$1,000 for each of 56 violations of GO 165 for failure to identify unsafe conditions and \$20,000 for one violation for exceeding GO 165's inspection intervals. This decision also grants the intervention of the California Cable and Telecommunications Association (CCTA), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E). It also considers and rejects the appeals to the presiding officer's decision of Edison, the Commission's Consumer Protection and Safety Division, CCTA, P&GE, and SDG&E. This proceeding is closed.

(Comr Kennedy - ALJ Econome)

Agenda 3124, Item 47 12/4/2003 (Kennedy)

Outcome Held (2/11/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

23

[3051]

R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code Section 761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.

This order denies the October 14, 2003 motion of Sempra Energy to be removed from the list of respondents. The proceeding remains open.

(Comr Wood - ALJ Mattson)

Agenda 3125, Item 42 12/18/2003 (Peevey);

Agenda 3126, Item 49 1/8/2004 (Staff)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

23a

[3175]

ALTERNATE TO ITEM 3051

This alternate order grants the October 14, 2003 motion of Sempra Energy. Sempra Energy is removed from the list of respondents, and removed from the service list. This proceeding remains open.

(Comr Peevey)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

24

[3076]

A00-11-038 - Southern California Edison Company.

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. This decision addresses the amount of interest that should be paid by the shareholders of Pacific Gas and Electric Company in connection with the under-remittance that was owed to the California Department of Water Resources.

(Comr Brown, Comr Lynch - ALJ Wong)

Agenda 3126, Item 17 1/8/2004 (Wood)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

24a

[3172]

ALTERNATE TO ITEM 3076

This alternate decision adopts an interest amount of \$38 million that should be paid by shareholders of Pacific Gas and Electric Company in connection with the under-remittance that was owed to the California Department of Water Resources.

(Comr Wood)

Outcome Signed as Modified (Change p. 4.)

D04-01-049

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

25

[3077]

R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and D01-09-060.

This decision grants in part and denies in part the Petition to Modify D03-04-057, filed on September 25, 2003 by Alliance for Retail Energy Markets and Western Power Trading Forum. The decision grants the request to relieve ESPs of the requirement to sign an affidavit attesting to the compliance of DA customers with DA load suspension rules. The decision denies the request to modify the load relocation and replacement requirements to permit a DA customer to calculate the net change in DA load from all replacements and relocations in facilities within its utility-specific service territory. The Decision interprets D03-04-057 as permitting more than one account to count as replacement for a relocated account provided that documentation is provided that records are kept to demonstrate that the relocated accounts were all closed, and that the load on the new accounts at the replacement locations matches the total load of the closed accounts (subject to the flexibility granted in D03-05-057 for cases where the relocated load(s) are slightly larger). The customer, however, shall not apply reductions in DA load from any of its continuing DA accounts and/or facilities to count toward offsetting increases in DA load at newly constructed facilities and/or through replacement accounts.

(Comr Brown, Comr Wood - ALJ Pulsifer)

Agenda 3126, Item 75 1/8/2004 (Kennedy)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

25a

[3163]

ALTERNATE TO ITEM 3077

This alternate adopts the initial ALJ's draft decision. It differs from the current ALJ draft decision in that it denies the requested modification seeking to eliminate the account-by-account requirements associated with Direct Access customers' relocations or facility replacements.

(Comr Wood)

Agenda 3126, Item 75a 1/8/2004 (Kennedy)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

25b

[3178]

ALTERNATE TO ITEM 3077

This decision grants the Petition to Modify D03-04-057, filed on September 25, 2003 by Albertson's Inc., Alliance for Retail Energy Markets and Western Power Trading Forum. The decision grants the request to relieve ESPs of the requirement to sign an affidavit attesting to the compliance of DA customers with DA load suspension rules. The decision also grants the request to modify the load relocation and replacement requirements to permit a DA customer to calculate the net change in DA load from all replacements and relocations in facilities within its utility-specific service territory.

(Comr Kennedy)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

26

[3079]

A99-04-024 - Southern California Edison Company (Edison).

This decision is adopting \$31,782,000 for Edison in capital additions for non-nuclear plant for safety, regulatory and environmental purposes, and approving \$20,434,000 in capital additions in divested plants to maintain plant, but finding that these capital additions have already been recovered through gain on sale. A99-04-024 is closed.

(Comr Lynch - ALJ DeBerry)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

27
[3131]

R _____ - Order Instituting Rulemaking to establish policies and rules to ensure reliable, long-term supplies of natural gas to California.

This proceeding is opened to consider and rule upon proposals the Commission is requiring California natural gas utilities to submit, which must be aimed at ensuring reliable, long-term supplies of natural gas to California. Through this rulemaking, the Commission orders Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southwest Gas Corporation to submit proposals addressing how California's long-term natural gas needs should be met through contracts with interstate pipelines, new Liquefied Natural Gas (LNG) Facilities, storage facilities and in-state production of natural gas. The Commission invites all interested parties to respond to these proposals, and the Commission will thereafter issue orders guiding or directing the California utilities on these matters.

Agenda 3126, Item 52 1/8/2004 (Staff)

Outcome Signed

R04-01-025

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

28
[3134]

R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.

This decision adopts a long-term regulatory framework under which California's three largest investor-owned utilities, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company, will plan for and procure the energy resources and demand-side investments necessary to ensure their customers receive reliable service at low and stable prices. (See D03-12-062 [Agenda ID#3005, 12/18/03] for issues decided related to 2004 Plans)

(Comr Peevey - ALJ Walwyn)

Agenda 3126, Item 53 1/8/2004 (Staff)

Outcome Signed (Pres. Peevey will file a concurrence.)

D04-01-050

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

28a

[3135]

ALTERNATE TO ITEM 3134

This decision addresses the same issues as the ALJ's proposed decision, but differs in its recommendations in at least the following major areas: resource adequacy, transmission resources, treatment of qualifying facilities, and development of procurement incentive mechanisms.

(Comr Peevey)

Agenda 3126, Item 53a 1/8/2004 (Staff)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

28b

[3136]

ALTERNATE TO ITEM 3134

This alternate decision addresses many of the same issues in the proposed decision, including resource adequacy, utility reserve margins, direct access reserve margins (including which entity will provide direct access reserves), affiliate issues, and data for utility forecasts for the long-term plans. It also includes a schedule for additional evidentiary record development of the above issues, as necessary.

(Comr Lynch)

Agenda 3126, Item 53b 1/8/2004 (Staff)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

29

[3161]

R_____ - Order Instituting Rulemaking on policies and practices for the Commission's transmission assessment process.

This order institutes a rulemaking to examine the Commission's process and practice for determining the need for new transmission facilities that require, under Pub. Util. Code 1001, a certificate of public convenience and necessity as defined in General Order 131-d.

Outcome Signed (Comr. Lynch reserves the right to file an explanation of her abstention. Comr. Wood will file a dissent.)

R04-01-026

Yes: (Brown, Kennedy, Peevey)

No: (Wood)

Abstain: (Lynch)

Absent: (none)

Energy Resolutions and Written Reports**30**

[2945]

Res G-3354 - Pacific Gas and Electric Company (PG&E), Southern California Edison (Edison), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCalGas), and Southwest Gas Corporation (SWG).

PG&E, Edison, SDG&E, SoCalGas, and SWG request tariff revisions to reflect a decrease in the Income Tax Component of Contribution associated with Contributions in Aid of Construction. (PG&E Advice Letter (AL) 2466-G/2386-E, filed June 6, 2003, Edison AL 1715-E, filed June 19, 2003, Edison AL 120-G, filed June 19, 2003, SDG&E AL 1505-E/1382-G, filed June 11, 2003, SoCalGas AL 3267, filed June 12, 2003, SWG AL 692, filed July 14, 2003)

Agenda 3124, Item 51 12/4/2003 (Staff);

Agenda 3125, Item 63 12/18/2003 (Staff)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Telecommunication Orders**31**
[2376] **R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.**

I01-09-002 - Related matters. This proposed decision addresses Phase 2A audit issues. The proposed decision finds that Pacific properly reported its pension and depreciation expenses during 1997 - 1999, but misreported its expenses during this period for PBOPs and income taxes. The proposed decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. These findings result in Pacific owing a refund to its ratepayers.

(Comr Kennedy - ALJ Kenney)

Agenda 3123, Item 38 11/13/2003 (Staff);

Agenda 3125, Item 67 12/18/2003 (Staff);

Agenda 3126, Item 55 1/8/2004 (Kennedy)

Outcome Held (2/11/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

31a
[2378] **ALTERNATE TO ITEM 2376**

This proposed alternate decision of the assigned Commissioner finds that Pacific Bell properly reported its pension and depreciation expenses during 1997-1999. The alternate finds that Pacific Bell properly wrote off certain PBOP's regulatory assets as expenses in 1998 when the Commission eliminated a rate surcharge that supported this regulatory asset. On other issues, the alternate finds that Pacific misreported expenses during this period concerning PBOPs sub-accounts and concerning income taxes. The alternate decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. Compared to the Administrative Law Judge's proposed decision, the alternate decision finds a lower level of misreported costs and orders a smaller refund. The alternate orders a total of \$162 million in refunds to ratepayers, including interest through July 2003.

(Comr Kennedy)

Agenda 3123, Item 38a 11/13/2003 (Staff);

Agenda 3125, Item 67a 12/18/2003 (Staff);

Agenda 3126, Item 55a 1/8/2004 (Kennedy)

Outcome Held (2/11/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

32

[2513]

R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.

The Commission adopts General Order No. ###, Rules Governing Telecommunications Consumer Protection, applicable to all Commission-regulated telecommunications utilities. G.O. ### sets forth: in Part 1, a telecommunications consumers' Bill of Rights; in Part 2, a set of Consumer Protection Rules all carriers must follow to protect those rights; in Part 3, Rules Governing Billing for Non-communications-Related Charges; and in Part 4, Rules Governing Slamming Complaints. The proceeding remains open to consider changes to the current limitation of liability provisions, rules protecting non-English speaking consumers, and a telecommunications consumer education program. (Comr Wood - ALJ McVicar)

Agenda 3119, Item 40 9/18/2003 (Staff);

Agenda 3120, Item 45 10/2/2003 (Brown);

Agenda 3122, Item 38 10/30/2003 (Brown);

Agenda 3124, Item 53 12/4/2003 (Wood);

Agenda 3125, Item 69 12/18/2003 (Peevey)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

33

[2571]

A99-03-025 - Roseville Telephone Company (Roseville).

On May 3, 2002, Roseville filed a petition to modify D01-06-077. Specifically, it asks to remove the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. This decision denies the petition and also requires Roseville to file for its next NRF review no later than 90 days after a final decision in Rulemaking 01-09-001 and Investigation 01-09-002, the NRF reviews for Pacific Bell Telephone Company and Verizon California Incorporated. This proceeding is closed.

(Comr Lynch - ALJ O'Donnell)

Agenda 3118, Item 42 9/4/2003 (Kennedy);

Agenda 3120, Item 46 10/2/2003 (Kennedy);

Agenda 3122, Item 39 10/30/2003 (Brown);

Agenda 3123, Item 39 11/13/2003 (Lynch);

Agenda 3124, Item 54 12/4/2003 (Brown);

Agenda 3125, Item 68 12/18/2003 (Lynch);

Agenda 3126, Item 56 1/8/2004 (Wood)

Outcome Held (2/11/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

33a

[2880]

ALTERNATE TO ITEM 2571

This alternate modifies D01-06-077 to suspend the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. The alternate also requires Roseville to file for its next NRF Review no later than 90 days after a final decision in the policy phase of R01-09-001/I01-09-002. This proceeding is closed.

(Comr Kennedy)

Agenda 3122, Item 39a 10/30/2003 (Brown);

Agenda 3123, Item 39a 11/13/2003 (Lynch);

Agenda 3124, Item 54a 12/4/2003 (Brown);

Agenda 3125, Item 68a 12/18/2003 (Lynch);

Agenda 3126, Item 56a 1/8/2004 (Wood)

Outcome Held (2/11/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

34

[2987]

A99-10-010 - GTE California Incorporated (now Verizon California, Inc.).

Verizon California Inc. (Verizon) has amended this 1999 application, which now seeks approval under Pub. Util. Code §851 of 18 lease and license agreements, as well as other relief. The amendment incorporates recommendations by the Commission's Office of Ratepayer Advocates (ORA) based on ORA's audit of Verizon in the fourth triennial review of the New Regulatory Framework, or NRF. This decision also give § 851 approval to Verizon's shared asset methodology of dealing with office space and office equipment used by three Verizon affiliates that perform administrative functions for Verizon and other subsidiaries of Verizon's parent company. This approval relieves Verizon of the need to prepare space and office equipment leases with these three affiliates or to file those leases for Commission approval in formal §851 applications. This decision declines to adopt ORA's suggested procedural changes for use of the shared asset methodology. This proceeding is closed.

(Comr Wood - ALJ Walker)

Agenda 3126, Item 59 1/8/2004 (Lynch)

Outcome Held (2/11/04. Possible alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

35 (Rev.)

[3105]

A00-02-039 - Metromedia Fiber Network Services, Inc. (MFNS).

This decision imposes a \$50,000 penalty on MFNS for commencing construction on a portion of its California fiber optic network in violation of Commission Rule 17.1 et seq., D97-06-107, and Instruction 4 to the "registration" form authorized in that decision. The decision finds MFNS was aware or should have been aware that its project had the potential to cause environmental impact. Before commencing construction, MFNS should have allowed the Commission the opportunity to conduct an environmental review of MFNS' plans. This proceeding is closed.

(Comr Lynch - ALJ Thomas)

01/21/2004 - This revision was not shown on the Agenda mailed to the public.

Outcome Held (2/16/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

36

[3170]

I _____ - Order Instituting Investigation on the appropriate regulatory framework for the provision of voice over internet protocol service in California.**Outcome Held (2/11/04. Further review/possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Telecommunication Resolutions and Reports

- 37**
[3108] **Res T-16818 - SBC California (SBC).**
This resolution approves a one-year provisional tariff authorizing SBC to waive the installation service charge for eligible residence and business customers returning from facilities-based carrier service who are served on an Unbundled Network Element-Platform basis. (Advice Letters 24278 and 24279, filed October 10, 2003)
Outcome Held (2/11/04.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
- 38 (Rev.)**
[3120] **Res T-16815**
This resolution authorizes a budget augmentation for fiscal year 2003/04 in the amount of \$11,951,655 for the Deaf and Disabled Telecommunications Program.
01/16/2004 - This revision was not shown on the Agenda mailed to the public.
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 39 (Rev.)**
[3121] **Res T-16816**
This resolution authorizes a revised program budget in the amount of \$69,116,480 for fiscal year 2003-04 and an increase in the surcharge rate from 0.047% to 0.30% for the Deaf and Disabled Telecommunications Program.
01/16/2004 - This revision was not shown on the Agenda mailed to the public.
Outcome Approved
Yes: (Brown, Kennedy, Peevey, Wood)
No: (none)
Abstain: (Lynch)
Absent: (none)
- 40 (Rev.)**
[3124] **Res T-16817**
This resolution authorizes a revised program budget in the amount of \$57,251,405 for fiscal year 2004/05 and maintenance of a 0.30% surcharge rate for the Deaf and Disabled Telecommunications Program.
01/16/2004 - This revision was not shown on the Agenda mailed to the public.
Outcome Held (2/11/04.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)

Water/Sewer Orders

- 41** **A03-08-014 - Lennar Corporation, LNR Property Corporation, LNR NWHL Holdings, Inc., NWHL Investment LLC, NWHL GP LLC, NWHL Acquisition, L.P., Newhall Land and Farming Company, and Valencia Water Company.**
[2973]

This decision conditionally approves the transfer of indirect control of Valencia Water Company from Newhall Land and Farming Company to Lennar Corporation and LNR Property Corporation. This proceeding is closed.

(Comr Kennedy - ALJ Bushey)

Agenda 3125, Item 88 12/18/2003 (Lynch)

Outcome Signed (Comr. Lynch reserves the right to file a dissent.)

D04-01-051

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

- 42** **A02-07-021 - Southern California Water Company (SCWC).**
[3099]

In Interim Decision 03-05-001 on May 8, 2003, the Commission approved a settlement between the City of Santa Monica (City) and SCWC that conveyed SCWC water rights to the City and relieved SCWC from its participation in a number of pending lawsuits related to the Charnock Groundwater Basin. The issue of ratemaking treatment of the settlement proceeds and the issue of contamination payments made to SCWC by oil companies were deferred to this phase of the proceeding. This decision resolves those issues. The application is closed.

(Comr Kennedy - ALJ Walker)

Outcome Held (2/26/04. Possible alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Water/Sewer Resolutions and Reports**43**

[3112]

Res W-4449 - Del Oro Water Company (DOWC) - Country Estates District (CE), Ferndale District (FD), Johnson Park District (JP), Lime Saddle District (LS), and Magalia District (MD).

This resolution authorizes a one-time surcharge to recover an increase in water testing costs producing a total increase in annual revenue for DOWC of \$8,528 or 0.87%. (Advice Letter 122, filed October 27, 2003)

Agenda 3126, Item 34 1/8/2004 (Kennedy)

Outcome Approved (Comr. Kennedy will file a concurrence.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Legislative Matters**44**

[2459]

SB 584 (Alarcon)

Advertising.

Agenda 3116, Item LEG-8 7/10/2003 (Staff);

Agenda 3117, Item 128 8/21/2003 (Wood);

Agenda 3118, Item 50 9/4/2003 (Staff);

Agenda 3126, Item 63 1/8/2004 (Staff)

Outcome Held (2/11/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

45

[3182]

Proposed Legislation

Enabling legislation to authorize a dedicated rate component proposal, relative to D03-12-035.

Outcome Approved-Staff Recommendation

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Commissioner's Reports**46**

[3183]

President Peevey Report

Pacific Gas and Electric Company's Plan of Reorganization under Chapter 11 in United States Bankruptcy Court. Discussion of and action on Commission appointments to the Stewardship Council for Land Conservation Commitment and Clean Energy Technology.

Outcome Information Only

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Management Reports and Resolutions

47
[3176] **Executive Director William Ahern Report**
Report on Processing Formal and Informal Filings in 2003.
Outcome Information Only
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)

48
[3177] **Executive Director William Ahern Report**
Report on Status of the California Teleconnect Fund.
Outcome Information Only
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the

Non-Federal

- 49** **R01-12-009 - Conference with Legal Counsel – Application for Rehearing**
 [3016] Disposition of Applications for rehearing of D03-06-072, filed by California Water Association and its Class A Water Utility Members and Southern California Water Company. In this decision, the Commission revised procedures for recovery from water balancing accounts existing on or after November 29, 2001.
 Agenda 3125, Item 77 12/18/2003 (Kennedy)
 Outcome Held (2/26/04.)
 Yes: (none)
 No: (none)
 Abstain: (none)
 Absent: (none)
- 50** **A02-05-065 - Conference with Legal Counsel – Application for Rehearing**
 [3049] Disposition of Application for Rehearing of D03-09-023 filed by the City of Richmond. D03-09-023 found that the installation of an upgraded warning and safety system at the at-grade crossing at Richmond Avenue in the City of Richmond would upgrade the crossing to acceptable safety standards set by the Commission and other state and federal agencies. The Commission ordered the Burlington Northern Santa Fe Railroad Company to undertake the work effective immediately, despite the protests of the City of Richmond, which opposed the replacement of the existing wigwag warning devices with the upgraded system.
 Agenda 3125, Item 81 12/18/2003 (Staff)
 Outcome Withdrawn
 Yes: (none)
 No: (none)
 Abstain: (none)
 Absent: (none)

51

[3127]

A01-09-062, et al. - Conference with Legal Counsel - Application for Rehearing

Disposition of Application of Rehearing of D03-09-021, filed by California Water Service Company (Cal Water). In this decision, the Commission issued an order setting rates for 15 of Cal Water's 24 districts.

Outcome Signed

D04-01-052

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

52

[3166]

A03-11-015 - Conference with Legal Counsel - Application for Rehearing

Order disposing of application for rehearing of Resolution E-3848 filed by Southern California Edison (SCE). Resolution E-3848 was issued in response to SCE's Advice Letter No. 1676-E, which requested approval of agreements consolidating two qualifying facility (QF) power purchase agreements involving adjacent geothermal projects. SCE contends that, subsequent to filing the advice letter, it obtained additional information that rendered the ratepayer benefit of the agreements indeterminate, and that it advised the Commission to hold the draft resolution approving the advice letter or to consider the advice letter withdrawn. SCE asserts that the Commission's October 16, 2003 approval of the resolution is legal error.

Outcome Signed

D04-01-053

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)